

REMARKS**Paragraph 1 of the Office Action**

5 The numbering of the claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution.

The claims appear above renumbered as indicated by the Examiner. The claims do not reflect this amendment, as it appears from the office action the amendment was made by Examiner's amendment and was therefore not required with this response.

10 **Paragraphs 2 -7 of the Office Action**

Claims 1-4, 7-9, 11, 13-14 and 15-18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lampton in view of Young. Claims 5-6 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lampton as applied to claim 1 above, and further in view of Mitchell. Claims 10 and 12 are rejected under 35 U.S.C. §103(a) as
15 being unpatentable over Lampton as applied to claims 1, 9 and 11 above, and further in view of Lackomar.

It is respectfully submitted that claim 18 has been incorrectly rejected as elements of claim 18 are also argued against using the Mitchell, Lampton and Lackomar citations. For this reason, claim 18 will be treated as though it has been rejected under all four
20 citations.

As to amended claim 1 and original claim 18, it is felt that the Examiner has improperly used applicant's claim language and specification as a template to find the elements of applicant's device amongst a plurality of citations. How else could one explain that the Examiner required 4 citations to find a panel having a plurality of
25 pockets, handles and couplers attached thereto? Applicant's device only includes 4 primary elements and yet the Examiner was forced to use that same number of citations. This is evidence of non-obviousness as opposed to obviousness.

30 Presuming arguendo that the references show the elements or concepts urged by the examiner, the examiner has presented no line of reasoning, and we know of none, as to why the artisan viewing only the collective teachings of the references would have found it obvious to selectively pick and choose various elements and/or concepts from the several references relied on to arrive at the claimed invention. In the instant application, the examiner has done little more

than cite references to show one or more elements or subcombinations thereof, when each is viewed in a vacuum, is known. The claimed invention, however, is clearly directed to a combination of elements. That is to say, appellant does not claim that he has invented one or more new elements but has presented claims to a new combination of elements. To support the conclusion that the claimed combination is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed combination or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

Ex parte Clapp, 227 USPQ 972, 973 (PTO Bd. App. 1985).

The Examiner may state that each citation shows a carrying case, but that is not enough, there still must be motivation and at the very least, *a common structure between the citations and applicant's claim language*. Lampton is cited for showing "the use of a holding assembly for the selectively positioning on a back side of a vehicle seat (10) ...". Page 2, paragraph 4 of the office action. Nowhere is a vehicle seat to be found in Lampton. In fact, the holding assembly to which the Examiner refers has a special structure adapted for forming the backrest of a folding chair. There is nothing within the structure that would allow it to be held to a vehicle seat and there is nothing suggested within Lampton that this should or could be done.

The Examiner next states at page 3, paragraph 1, "... Young teaches the use of pockets having a width equal to at least 5.50 inches, a depth equal to at least 0.50 inches and a height equal to at least 3.0 inches." Applicant is unable to determine how the Examiner has divined this information as it is apparent to the applicant that these measurements are no where to be found within the Young teaching. In fact, Young states quite the opposite. "In the preferred embodiment, various size and shape pocket means are provided to accommodate various kinds and types of personal care items (and include) ... two relatively large-size horizontally elongated pockets ... five relatively large-size vertically elongated pockets ... a relatively small-size horizontally elongated upper pocket 83 and a pair of relatively small size lower vertically elongated pockets...." Young, column 3 lines 39-54. This list continues on with additional relative sizes but never mentions what size they may actually be. However, if the pockets of Young include sizes for personal care items such as "cosmetics, medicines, personal hygiene items, and the like...", then it is apparent that Young is disclosing pocket sizes having

different, and often smaller, dimensions than those employed by applicant. Young, column 1, lines 32-33. The size of applicant's pockets is specific to DVD cases and thus is critical to applicant's device.

Continuing with Young, the Examiner states that Young teaches angled handles. Again, the Examiner does not show where such is found in Young and applicant has again been unable to find any such teaching within Young. The Examiner suggests that Young would do this though to prevent objects from falling out of the Young assembly. Even though Young does not suggest this, or angled handles, Young would not require this as Young's device closes with a zipper along the entirety of its perimeter edge and therefore there would be no risk of items falling out. Applicant has included angled handles because applicant did not include a zipper to hold the two halves of the panel together and therefore it would be more comfortable to a person carrying applicant's panel if the handles were angled. Additionally, unlike Young, applicant does not include a peripheral wall. The peripheral wall of Young keeps the upper rows of the pockets spaced from the lower rows of pockets when the Young device is closed. Applicant instead uses the angled handles to keep the pockets from biasing against each other and again make the panel less difficult to transport by hand.

Lackomar has been cited for the showing of first and second pairs of straps which are extended around a chair. However, Lackomar does not teach this. Lackomar teaches and upper pair of straps extendable around a headrest but the lower straps are extended under the bottom edge of a vehicle seat. The positioning of the bottom Lackomar straps allows them to be attached together around the bottom of the backrest, but not around the backrest itself. This is an inconvenient way of attaching a device to a seat and may interfere with seat controls or prove difficult to even achieve depending on the structure of the seat.

However, even if the Examiner had found the above, mischaracterized elements within the prior art, the Examiner still must show that the combination would be obvious to one familiar with these citations. That simply cannot happen here. First, to what end would Young, a traveling case, be benefited by the addition of straps to be secured to a chair? Lampton does not require such straps, nor does Mitchell as each has a unique coupling feature adapted for a particular chair. Mitchell uses a sleeve structure for being

positioned on a bus-type chair which has no headrest while Lampton also uses sleeves for receiving rods attached to a chair. Lampton is the backrest itself. There simply can be no possible motivation to attach backrest couplers to a backrest. Without motivation, there cannot be an obvious combination.

5 'Obviousness cannot be established by combining the teachings of the prior art to
produce the claimed invention, absent some teaching or suggestion supporting the
combination. Under section 103, teachings of references can be combined only if
there is some suggestion or incentive to do so.' [citation omitted] Although
10 couched in terms of combined teachings found in the prior art, the same inquiry
must be carried out in the context of a purported obvious "modification" of the
prior art. The mere fact that the prior art may be modified in the manner
suggested by the Examiner does not make the modification obvious unless the
prior art suggested the desirability of the modification.

15 In re Fritch, 972 F.2d 1260; 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992), (in part quoting
from ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577; 221
USPQ 929, 933 (Fed. Cir. 1984)).

For the reasons stated above, it is believed that independent claims 1 and 18, as
well as all remaining dependent claims, are in condition for allowance.

Withdrawal of the rejection is respectfully requested by the applicant.

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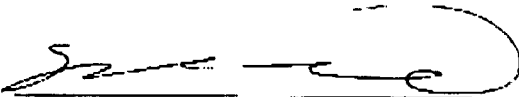
CONCLUSION

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In light of the forgoing amendments and remarks, early consideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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